APPENDIX

Memorandum Decision of the Court of Appeals of New York, dated May 4, 1982

Remittitur of the Court of Appeals of New York, dated May 4, 1982

Order of Appellate Division of the Supreme Court of New York, Fourth Judicial Department, Affirming Decision and Order of Supreme Court, Onondaga County, entered February 13, 1981.

Order of Supreme Court, Onondaga County, dated December 6, 1979, entered December 7, 1979

Decision of Honorable John R. Tenney, Justice of the Supreme Court, Onondaga County, dated August 17, 1979

Notice of Appeal to the Supreme Court of the United States

Section 53-30, Town Code of the Town of DeWitt, Onondaga County, New York

Memorandum Decision of the Court of Appeals of New York, dated May 4, 1982

STATE OF NEW YORK
COURT OF APPEALS

4 No. 204
Syracuse Savings Bank, et al.,

Appellants,

v.

Town of DeWitt,

Respondent.

(204) Leonard C. Koldin & Benjamin D. Levine, Syracuse, for appellants.

Eric M. Alderman, Joseph W. Jerry, & Bernard Samuels, Syracuse, for respondent.

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

MEMORANDUM.

The order of the Appellate Division should be modified, with costs to respondent, to the extent of directing judgment in favor of defendant declaring that Section 53-30 of the Town Code of the Town of DeWitt is constitutional insofar as .. egulates commercial speech.

In this action seeking a declaration that the "Sign Ordinance" of the Town of DeWitt is unconstitutional the Appellate Division affirmed Supreme Court's dismissal of the complaint on the motion of defendant Town for summary judgment. Inasmuch as plaintiffs tendered no evidentiary proof

in admissible form[1] there is no evidence before us as to the practical application of the ordinance or its prospective impact in the Town of DeWitt, and no showing of facts sufficient to require an evidentiary hearing as to issues of fact. Accordingly, on the record before us the sign ordinance can be considered only in the abstract without consideration of any impact on plaintiffs. From that very narrow perspective we perceive no error made by the courts below in upholding the constitutionality and validity of the ordinance against the challenges mounted by plaintiffs. We address only the principal contentions advanced by plaintiffs in our Court.

At the threshold we observe that because plaintiffs, an extensive assemblage of business and commercial enterprises in the Town, have shown no direct interest in noncommercial speech and no commercial interest in others who themselves have such an interest, they lack standing to raise any constitutional First Amendment argument of overbreadth to challenge the ordinance to the extent that it regulates, or may be said to regulate, non-commercial speech.

With reference to the application of the ordinance to commercial speech, we cannot conclude that the near total proscription of free standing signs or the regulation of on-building facade signs as to size and height do not constitute, on the face of the ordinance, a permissible constraint only as to

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[1]The only exception, immaterial for present purposes, was the affidavit of the former Town Director of Police with respect to conditions of vehicular and pedestrian traffic in the Town and his opinion as to the impact of the sign ordinance thereon.

Contrast, for instance, the extensive discovery leading to the comprehensive stipulation of facts on which the courts' rulings were based in *Metromedia, Inc. v City of San Diego* (___ US ___, 49 USLW 4925), on the basis of which plaintiffs sought and obtained leave to appeal in this case.

location and manner *(Suffolk Outdoor Adv. Co. v Hulse,* 43 NY2d 483; *Modjeska Sign Studios v Berle,* 43 NY2d 468). Nor is there any proof in the record that the four-year, nine-month period between the adoption of the ordinance and its effective date created an impermissibly short amortization period.[2]

Inasmuch as this is a declaratory judgment action, the proper disposition on the granting of defendant's motion for summary judgment should have been a declaration that the sign ordinance is constitutional rather than a dismissal of the complaint *(Lanza v Wagner,* 11 NY2d 317, 334).

* * * * * *

Order modified, with costs to respondent, in accordance with the memorandum herein and, as so modified, affirmed. Chief Judge Cooke and Judges Jasen, Gabrielli, Jones, Wachtler, Fuchsberg and Meyer concur.

Decided May 4, 1982

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[2]We note the provision in the order of Supreme Court, affirmed at the Appellate Division and left standing by us, "that all rights are reserved to the individual plaintiffs to apply for appropriate administrative relief from the defendant upon a proper demonstration of need for such relief."

Remittitur of the Court of Appeals of New York, dated May 4, 1982

Remittitur

COURT OF APPEALS
STATE OF NEW YORK

The Hon. Lawrence H. Cooke, Chief Judge, Presiding

4 No. 204
Syracuse Savings Bank, et al.,

Appellants,

v.

Town of DeWitt,

Respondent.

The appellant(s) in the above entitled appeal appeared by Heim, Koldin & Canter; *the respondent(x) appeared by* Alderman, Samuels, Jerry & Rossi.

The Court, after due deliberation, orders and adjudges that the order is modified, with costs to respondent, in accordance with the memorandum herein and, as so modified, affirmed. Chief Judge Cooke and Judges Jasen, Gabrielli, Jones, Wachtler, Fuchsberg and Meyer concur.

The Court further orders that the papers required to be filed and this record of the proceedings in this Court be remitted to the Supreme Court, Onondaga County, *there to be proceeded upon according to law.*

I certify that the preceding contains a correct record of the proceedings in this appeal in the Court of Appeals and that the papers required to be filed are attached.

/s/ JOSEPH W. BELLACOSA,
Clerk of the Court

Court of Appeals, Clerk's Office, Albany, May 4, 1982.

Order of Appellate Division of the Supreme Court of New York, Fourth Judicial Department, Affirming Decision and Order of Supreme Court, Onondaga County, entered February 13, 1981

SUPREME COURT
OF THE
STATE OF NEW YORK

Appellate Division, Fourth Judicial Department

PRESENT: CARDAMONE, J.P., SIMONS, CALLAHAN, DOERR, SCHNEPP, JJ.

Syracuse Savings Bank, et al.,

Appellants,

v.

Town of Dewitt,

Respondent.

The above named Syracuse Savings Bank, et al. having appealed to this Court from an order of the Supreme Court, entered in the Onondaga County Clerk's office on December 7, 1979 and said appeal having been argued by Leonard Koldin of counsel for appellants, Emil Rossi of counsel for respondent, and due deliberation having been had thereon,

It is hereby ORDERED, That the order so appealed from be and the same hereby is unanimously affirmed with costs on the opinion at Special Term, Tenney, J.

Entered: FEB 13 1981

MARY F. ZOLLER, *Clerk*

Order of Appellate Division of the Supreme Court of New York, Fourth Judicial Department, Affirming Decision and Order of Supreme Court, Onondaga County, entered February 13, 1981

SUPREME COURT
APPELLATE DIVISION,
Fourth Judicial Department,
Clerk's Office, Rochester, N.Y.

I, MARY F. ZOLLER, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.

IN WITNESS WHEREOF, *I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this*

FEB 13 1981

(SEAL)

MARY F. ZOLLER, *Clerk.*

Order of Supreme Court, Onondaga County, dated December 6, 1979, entered December 7, 1979

At a Motion Term of the Supreme Court held in and for the County of Onondaga, at the County Courthouse in the City of Syracuse, New York on the 6th day of December, 1979.

PRESENT: HON. JOHN R. TENNEY,

Judge

STATE OF NEW YORK
SUPREME COURT
COUNTY OF ONONDAGA

SYRACUSE SAVINGS BANK, et al,

Plaintiffs,

-v-

TOWN OF DEWITT,

Defendant.

79 6021DEC 7 79

ORDER

Index No. _____

The defendant in the above entitled action, having made a motion for an Order pursuant to Civil Practice Law and Rules 3212, directing that summary judgment be entered herein in favor of the defendant and dismissing the Complaint of the plaintiffs on the ground that there is no triable issue involved herein.

NOW, on reading the Complaint and Answer herein, and on reading and filing the Notice of Motion, dated February 14, 1979, with proof of due service thereof, the Affidavit of Joseph W. Jerry, Esq., sworn to February 20, 1979, in support of the motion, and the Affidavit of Leonard C. Koldin, Esq., sworn

Order of Supreme Court, Onondaga County, dated December 6, 1979, entered December 7, 1979

to March 26, 1979, in opposition thereto, and after hearing Emil M. Rossi, Esq., of counsel for Jerry, Rossi, Tisdell & Moore, attorneys for the defendant, in support of the motion and Leonard C. Koldin, Esq., attorney for the plaintiff in opposition thereto and due deliberation having been had, it is, on motion of Joseph W. Jerry, Esq., of counsel for Jerry, Rossi, Tisdell & Moore, attorneys for the defendant,

ORDERED, that the said motion for summary judgment be and the same is hereby granted, and it is further

ORDERED, that the Complaint of the plaintiffs be and the same hereby is dismissed with prejudice, and it is further

ORDERED, that all rights are reserved to the individual plaintiffs to apply for appropriate administrative relief from the defendant upon a proper demonstration of need for such relief.

Signed this 6th day of
December, 1979, at
Utica, New York

ENTER:

/s/ JOHN R. TENNEY, *Judge*
Supreme Court

(FILED DEC 7 12:21 PM '79)

Decision of Honorable John R. Tenney, Justice of the Supreme Court, Onondaga County, dated August 17, 1979

STATE OF NEW YORK
SUPREME COURT
COUNTY OF ONONDAGA

SYRACUSE SAVINGS BANK; RAYMOUR FURNITURE COMPANY, INC.; FIRESTONE TIRE AND RUBBER COMPANY, INC.; COLE MUFFLER, INC.; CARROLS DEVELOPMENT CORPORATION, doing business under the name and style of Cinema East and Mini One Theatres; SLOTNICK ENTERPRISES, INC., doing business under the name and style of DeWitt Drive In; FRANKLIN FURNITURE DeWITT CORP.; DEWEY FURNITURE CORPORATION, doing business under the name and style of Roth Bros. Manor House; DANA ELSTON, doing business under the name and style of International House of Pancakes; BRANG CO., INC.; MICHAEL DEY LINCOLN-MERCURY, INC.; MO-RU OF DeWITT, INC., doing business under the name and style of Burger King; ENZA MUFFLERS, INC., doing business under the name and style of Midas Shops; DeWITT HIGHWAY HOTEL, INC., doing business under the name and style of DeWitt Ranch Motel; HOWED DISTRIBUTORS, INC., doing business under the name and style of Kids Town; MACARTNEY & TOLLES, INC., doing business under the name and style of Kentucky Fried Chicken; SOO-LIN RESTAURANT CORP.; ROCHESTER SHOE STORE OF DeWITT, INC.; SYRACUSE DONUT, INC., doing business under the name and style of Dunkin Donuts; DAVID F. KROFT, doing business under the name and style of Whale of a Wash of DeWitt; THE WARDROBE FORMALWEAR, INC.; DeWITT CAR WASH, INC.; PETER'S GROCERIES, INC.; CAPTAIN AHAB'S SEA-

Decision of Honorable John R. Tenney, Justice of the Supreme Court, Onondaga County, dated August 17, 1979

FOOD GALLERY, INC.; MAY ITALIA, INC., doing business under the name and style of Chef Italia Restaurant; GREGORY BANOS, doing business under the name and style of DeWitt Plaza; COLOR TILE SUPERMARTS, INC.; DeWITT BICYCLE CO., INC.; HELENE KAZACOS, doing business under the name and style of Carousel Hair Stylists; DeWITT SPORT SHOP, LTD.; COMPUTER SHOP OF SYRACUSE, INC.; LUND'S MEN'S SHOP, INC.; M. GOLDBERG & SONS — SYRACUSE, INC.; TITLE & CARPET TOWN EAST, INC.; B.W. STREETER, INCORPORATED, doing business under the name and style of Arby's; HARVEY SHURE, doing business under the name and style of H.J.S. Enterprises (Harvey's Shopping Plaza); RITE AID OF NEW YORK, INC.; and FRIENDLY ICE CREAM CORP.,

Plaintiffs,

-vs-

TOWN OF DeWITT,

Defendant.

APPEARANCES:

JERRY, ROSSI, TISDELL & MOORE
615 University Building
Syracuse, New York 13202
Attorneys for Defendant

HEIM, KOLDIN & CANTER
305 Montgomery Street
Syracuse, New York 13202
Attorneys for Plaintiffs

Dated: August 17, 1979

Decision of Honorable John R. Tenney, Justice of the Supreme Court, Onondaga County, dated August 17, 1979

DECISION

TENNEY, J.

This is a motion for summary judgment brought by the defendant Town of DeWitt. The complaint alleges that Section 53-30 of the DeWitt Town Code is unconstitutional, and that the Town be enjoined from enforcing or from prosecuting violators.

On March 26, 1973, the Town of DeWitt amended Section 53-30 of the Town Code, which amendment was designated "Sign Ordinance Regulation". This ordinance was apparently subsequently amended again in 1978. The 1978 amendments do not effect this litigation. The ordinance attempted to regulate the use of signs throughout the Town.

Freestanding signs are regulated with reference to size and proximity to stores and the street. There appears to be some confusion, but there is no intent to eliminate the freestanding sign. See Section 53-30 A(2) Signs attached to buildings are regulated as to size and height, and limitations are imposed as to other types of advertising gear such as bunting and streamers, etc. In order to give the sign-owners an opportunity to amortize their investment in non-conforming signs, the ordinance provided that enforcement would be postponed until January 1, 1978.

Plaintiffs contend that the Town Board exceeded its authority, that the statute is unreasonable, arbitrary and discriminating and represents an unlawful taking of property and a denial of free speech.

Although the express purpose of the statute is not stated, it appears to be for aesthetic purposes to establish a uniform and controlled sign system in the community. It has been held that

the regulation of outdoor advertising for aesthetic purposes alone is a valid exercise of police power. *Suffolk Outdoor Advertising v. Hulse,* 43 N.Y. 2d 483; *Matter of Cromwell v. Ferrier,* 19 N.Y. 2d 263; *People v. Goodman,* 31 N.Y. 2d 262; *Rochester v. Town of Brighton,* 49 A.D. 2d 273.

In the *Matter of Cromwell v. Ferrier,* at page 272, the court argued, "the eye is entitled to as much recognition as the other senses, but, of course, the offense to the eye must be substantial and must be deemed to have material issue on the community or district pattern". There is no evidence that the aesthetic purpose is at issue.

The plaintiffs in this case make issue over the question of accessory use as compared to non-accessory use of signs. It appears that the ordinance prohibits non-accessory signs. This issue was considered in *Suffolk Outdoor Advertising v. Hulse* and *People v. Goodman,* 31 N.Y. 2d 262. In the *Suffolk Outdoor Advertising Case,* the court said,

> "It cannot be seriously argued that a prohibition of this nature is not reasonably related to improving the aesthetics of the community. Nor can it be said that it is oppressive. (See *People v. Goodman,* 31 N.Y. 2d 262 supra.) Although prohibiting non-accessory billboards, the ordinance permits the maintenance of accessory or on-premises billboards. Thus, providing an operative means of advertising."

Therefore, the DeWitt ordinance is a valid exercise of police power and is constitutional. There is the question of reasonableness as to the extent of the limitations and the time of the amortization period which must be considered.

Basically, the legislative judgment and the legislative determination will not be disturbed unless manifestly

unreasonable. *New York State Thruway v. Ashley*, 10 N.Y. 2d 151, 156. A reading of the ordinance itself does not reflect any particular unreasonable regulation. It is true that the signs are to be limited in size, but the size does not appear to be unreasonable as a matter of law nor is it in any way discriminatory since it is to be uniformly applied.

The other issue is the reasonableness of the waiting or amortization time. The amortization period is to provide a sign-owner with an opportunity to recover his investment. However, "an owner need not be given that period of time necessary to permit him to recoup his investment entirely", *Suffolk Outdoor Advertising v. Hulse*, 43 A.D. 2d 483, 490, and the regulation of signs with a reasonable opportunity to recoup financial investments is not an unlawful taking of property. *Modjeska Sign v. Berle*, 43 N.Y. 2d 468 at 477. The principle of amortization is well established and is discussed in some detail in the Modjeska Case at page 478 and 479.

In the *Matter of Harbison v. City of Buffalo*, 4 N.Y. 2d 553, there was a three-year period for amortization which was sustained by the court as being reasonable. The question as to what is reasonable must be determined on an individual basis. The ordinance Reg. 53-30 A(10) states that all signs which do not conform to the regulations of this ordinance shall be brought into conformity or removed as of January 1, 1978. That is a period of 4-1/2 years, which ir prima facie reasonable. In fact, the signs have not been removed as of this date, August, 1979, which is approximately 6 years.

Although the ordinance does not make such a provision, it is implicit that an individual property-owner who feels aggrieved by the time period, may petition the municipal authorities for an extension of time based upon his individual circumstance. On its face, with the extension created by litigation, the statute

is reasonable, and the amortization period is well within any acceptable or pre-determined guidelines. This court cannot say as a matter of law that there might not be some exceptions and any attempt to do so would be speculative. However, in view of the finding that the ordinance is constitutional and that the guidelines and time period appear reasonable and proper, the motion for summary judgment is granted.

All rights are reserved to the individual plaintiffs to apply for administrative relief upon a proper demonstration of such a need.

Submit order accordingly.

COURT OF APPEALS OF
THE STATE OF NEW YORK

SYRACUSE SAVINGS BANK; RAYMOUR FURNITURE COMPANY, INC.; FIRESTONE TIRE AND RUBBER COMPANY, INC.; COLE MUFFLER, INC.; CARROLS DEVELOPMENT CORPORATION, doing business under the name and style of Cinema East and Mini One Theatres; SLOTNICK ENTERPRISES, INC., doing business under the name and style of DeWitt Drive In; FRANKLIN FURNITURE DEWITT CORP.; DEWEY FURNITURE CORPORATION, doing business under the name and style of Roth Bros. Manor House; DANA ELSTON, doing business under the name and style of International House of Pancakes; BRANG CO., INC.; MICHAEL DEY LINCOLN-MERCURY, INC.; MO-RU OF DEWITT, INC., doing business under the name and style of Burger King; ENZA MUFFLERS, INC., doing business under the name and style of Midas Shops; DEWITT HIGHWAY HOTEL, INC., doing business under the name and style of DeWitt Ranch Motel; HOWED DISTRIBUTORS, INC., doing business under the name and style of Kids Town; MACARTNEY & FOLLES, INC., doing business under the name and style of Kentucky Fried Chicken; SOO-LIN RESTAURANT CORP.; ROCHESTER SHOE STORE OF DEWITT, INC.; SYRACUSE DONUT, INC., doing business under the name and style of Dunkin Donuts; DAVID F. KROFT, doing business under the name and style of Whale of a Wash of Dewitt; THE WARDROBE FORMALWEAR, INC.; DEWITT CAR WASH, INC.; PETER'S GROCERIES, INC.; CAPTAIN AHAB'S SEAFOOD GALLEY, INC.; MAY ITALIA, INC., doing business under the name and style of Chef Italia Restaurant;

Notice of Appeal to the Supreme Court of the United States

GREGORY BANOS, doing business under the name and style of DeWitt Plaza; COLOR TILE SUPERMARTS, INC.; DEWITT BICYCLE CO., INC.; HELENE KAZACOS, doing business under the name and style of Carousel Hair Stylists; DEWITT SPORT SHOP, LTD.; COMPUTER SHOP OF SYRACUSE, INC.; LUND'S MEN'S SHOP, INC.; M. GOLDBERG & SONS — SYRACUSE, INC.; TILE & CARPET TOWN EAST, INC.; B.W. STREETER, INCORPORATED, doing business under the name and style of Arby's; HARVEY SHURE, doing business under the name and style of H.J.S. Enterprises (Harvey's Shopping Plaza); RITE AID OF NEW YORK, INC.; and FRIENDLY ICE CREAM CORP.,

Plaintiffs-Appellants,

-vs-

TOWN OF DEWITT,

Defendant-Respondent.

Index No. 79-6021 (Onondaga County)

Filed: Supreme Court of New York,
Onondaga County — June 11, 1982

Filed: Court of Appeals of New York
June 14, 1982

SIRS:

PLEASE TAKE NOTICE that the appellants named-above in the caption hereof, hereby appeal to the Supreme Court of the United States from the Decision, Order and Judgment of the Court of Appeals of the State of New York dated and entered in said Court May 4, 1982, as remitted to the Supreme Court of the State of New York, Onondaga County, on May 4, 1982 and received by said Court on May 10, 1982, affirming the Order of the Appellate Division of the Supreme Court of the

Notice of Appeal to the Supreme Court of the United States

State of New York, Fourth Judicial Department, as modified, and from each and every part thereof.

This appeal is taken pursuant to 28 U.S.C. §1257(2).

DATED: May 11, 1982

HEIM, KOLDIN & CANTER

BY /s/ LEONARD C. KOLDIN
Leonard C. Koldin
Attorneys for Plaintiffs-Appellants
Office and Post Office Address
305 Montgomery Street
Syracuse, New York 13202
(315) 472-8845

TO: ALDERMAN, SAMUELS, JERRY & ROSSI
Attorneys for Defendant-Respondent
Office and Post Office Address
512 Loew Building
Syracuse, New York 13202

Remittitur

THE COURT OF APPEALS
STATE OF NEW YORK

The Hon. Lawrence H. Cooke, Chief Judge, Presiding

4 No. 204
Syracuse Savings Bank, et al.,

Appellants,

v.

Town of DeWitt,

Respondent.

Notice of Appeal to the Supreme Court of the United States

The appellant(s) in the above entitled appeal appeared by Heim, Koldin & Canter; *the respondent appeared by* Alderman, Samuels, Jerry & Rossi.

The Court, after due deliberation, orders and adjudges that the order is modified, with costs to respondent, in accordance with the memorandum herein and as so modified, affirmed. Chief Judge Cooke and Judges Jasen, Gabrielli, Jones, Wachtler, Fuchsberg and Meyer concur.

The Court further orders that the papers required to be filed and this record of the proceedings in this Court be remitted to the Supreme Court, Onondaga County, *there to be proceeded upon according to law.*

I certify that the preceding contains a correct record of the proceedings in this appeal in the Court of Appeals and that the papers required to be filed are attached.

/s/ JOSEPH W. BELLACOSA
Clerk of the Court

Court of Appeals, Clerk's Office, Albany, May 4, 1982.

Section 53-30, Town Code of the Town of DeWitt, Onondaga County, New York

§ 53-30. Sign regulations. [Amended 12-18-67; 3-26-73]

A. General regulations. The following regulations apply to all signs:

(1) No sign in any district may extend over a sidewalk or public right-of-way.

(2) No sign in any district, unless attached to a building, shall be located nearer to a street line than twenty-five (25) feet, nor nearer to a side line than ten (10) feet, except in an Industrial District where it shall not be nearer than thirty-five (35) feet to a side line.

(3) No sign in excess of ten (10) square feet in area shall hereafter be erected, installed or altered except upon written sign permit issued by the Building Code Enforcement Officer.

(4) The area of a sign shall be measured by the area of its background frame where such a frame has been effected by materials, paint, lighting or other means. If the total rectangular areas of letter and symbol groupings in a sign are less than forty percent (40%) of the area of its frame, the maximum permitted area of the sign may be increased by sixty percent (60%). Where a sign consists solely of independent letters or symbols without such a frame, its area shall be measured by the rectangular areas encompassing the letter or symbol groupings. In all districts, except Industrial Districts, for each fifty (50) feet beyond the first hundred (100) feet in depth that a sign is located from the nearest highway, an additional ten percent (10%) may be added to the permitted area of the sign up to a maximum of one hundred percent (100%).

Section 53-30, Town Code of the
Town of DeWitt, Onondaga County, New York

(5) Advertising display upon any structure shall be regarded as a sign subject to this ordinance.

(6) No sign attached to a building in any district other than an Industrial District shall project above the height of the wall upon which it is attached. No sign shall be attached to a wall or facade higher than the average height of the remaining walls of the building. No freestanding sign shall be higher than twenty-five (25) feet above the grade.

(7) No illuminated sign or outdoor illumination shall direct light in a way which would create a traffic hazard, or be unreasonably detrimental to adjoining or neighboring residences.

(8) All accessory advertising devices of commercial enterprises other than signs permitted by these regulations, such as, but not limited to, bunting, pennants, pinwheels, streamers or peripheral lighting are prohibited. No sign shall be flashing, revolving, animated or otherwise in motion. Permits for the temporary display of special announcements for the opening or closing of a business, or for other specific purpose may be granted by the Building Code Enforcement Officer, upon controlled site approval of the Planning Board in accordance with Article XI.

(9) No sign shall obstruct any fire escape, window, door or opening used as a means of egress, for fire-fighting purposes or for ventilation. No sign shall be placed on any sidewalk, hydrant, lamppost, tree, utility pole, fence, or on other public property, except as permitted by other provisions of this section.

(10) All signs which do not conform to the regulations of this ordinance shall be brought into conformity or removed by January 1, 1978. No structural element of a nonconforming sign may be changed unless the resulting sign complies with the current regulations of this ordinance.

(11) Multiple-use establishments in nonresidential districts shall be subject to the following regulations:

(a) Signs for two (2) or more separate business establishments on the same lot or in the same building shall require controlled site approval of the Planning Board as provided in Article XI and upon the further finding that such signs are of a design compatible in style and color with one another.

(b) Shopping centers containing more than six (6) business establishments or over fifty thousand (50,000) square feet of gross floor area shall additionally be permitted to have one (1) shopping center identification sign which may be freestanding, the area of which shall not exceed one and one-half (1½) times the allowable area of a sign in the district at its proposed location, provided that the maximum area of signs for each single establishment within the shopping center visible from the property line shall be reduced by one-half (½).

(c) Shopping centers containing over five hundred thousand (500,000) square feet of gross floor area shall additionally be permitted to have two (2) shopping center identification signs, which

may be freestanding, the total combined areas of which shall not exceed twice the allowable area of a sign in the district at its proposed location, provided that the maximum area of signs for each single establishment within the shopping center visible from the property line shall be reduced by one-half (½).

(d) Enclosed mall shopping centers containing over five hundred thousand (500,000) square feet of gross floor area shall be permitted to have three (3) shopping center identification signs, which may be freestanding, the total combined areas of which shall not exceed three (3) times the allowable area of a sign in the district at its proposed location, provided there are no other shopping center signs visible from the property line.

(12) In all office, industrial or similar complexes consisting of two (2) or more buildings, no sign identifying said complex shall be erected or used except upon controlled site approval of the Planning Board in accordance with Article XI.

(13) In all districts except residential districts, a single non-illuminated temporary advertising sign for the sale or rental of the property upon which it is located may be erected or used except that it may not exceed sixteen (16) square feet in area and must be removed within fourteen (14) days of sale or rental.

B. In residential districts, no sign shall be erected or used except:

Section 53-30, Town Code of the Town of DeWitt, Onondaga County, New York

(1) A single professional or announcement sign which may be illuminated by white light, nor more than two (2) square feet in an area not more than six (6) inches in depth, attached to and parallel with a principal building facade so that its top shall not extend higher than eight (8) feet above finished grade.

(2) A single nonilluminated temporary advertising sign which may be freestanding or attached to the building, nor more than three (3) square feet in area, for the sale or rental of the property upon which it is located, provided that such sign is removed within fourteen (14) days of sale or rental.

(3) A single advertising sign which may be illuminated by white light on one (1) or two (2) faces and may be free-standing or attached to the building but which shall not be more than two (2) square feet in area, for the sale of agricultural products grown on the premises.

(4) Identification signs for multiple-family dwelling projects upon controlled site approval of the Planning Board in accordance with Article XI.

(5) Signs of duly constituted governmental bodies, including traffic or similar regulatory devices, legal notices or appropriate to public or quasi-public buildings.

(6) Signs, posters, flags, plaques or emblems of a temporary nature of political, civic, philanthropic, educational or religious organizations.

(7) Signs not visible off the lot upon which they are situated.

(8) Nonilluminated directional and identification signs not more than one and one-half (1½) square feet in area.

(9) Single builders', architects' and engineers' signs not more than fifteen (15) square feet in area may be erected on a construction site during construction, provided that such sign shall be removed within fourteen (14) days after completion.

C. In Business Transitional Districts, no sign shall be erected or used except:

(1) Those permitted in residential districts.

(2) No more than one (1) sign per street facade for the identification of each primary business conducted on the premises (or its proprietor), not to include advertising of specific products. Each sign shall be attached to and parallel with a street facade of the principal building, may be illuminated and shall have a total area not greater than eight percent (8%) of that proportion of such facade as the floor space of such primary business bears to the total floor space of the building, but not greater than fifty (50) square feet, except as may be modified by provisions of the general regulations.

D. In Business Districts, no sign shall be erected or used except:

(1) Those permitted in residential districts.

(2) Not more than three (3) signs for the identification of each business conducted on the premises. Such signs shall be attached to and parallel with a street facade of the principal building, may be illuminated, and shall have a total area not greater than ten percent (10%) of that proportion of such facade as the floor space for such business bears to the total floor space of the

building, but not greater than a total of seventy-five (75) square feet, except as may be modified by provisions of the general regulations.

E. In Industrial Districts, no sign shall be erected or used except:

(1) Signs permitted in business districts.

(2) Not more than three (3) signs for the identification of an industrial activity conducted on the premises. Such signs may be illuminated, may be freestanding or attached to the building and shall have a total area not greater than fifteen percent (15%) of a street facade of the principal building but not greater than a total of one thousand (1,000) square feet, except as may be modified by provisions of the general regulations.